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MEMOIR

ON THE

BOUNDARY QUESTION

PENDING BETWEEN

THE REPUBLIC OF COSTA RICA

AND THE

STATE OF NICARAGUA;

BY F. MOLINA,
ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY OF COSTA RICA
TO THE GOVERNMENT OF THE UNITED STATES.

WASHINGTON:
GIDEON AND CO., PRINTERS.
1851.

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MEMOIR

ON THE

BOUNDARY QUESTIONS PENDING BETWEEN THE REPUBLIC OF COSTA RICA AND THE STATE OF NICARAGUA.

The scheme of opening a communication between the Atlantic and Pacific oceans, across the territory of the above mentioned countries, attracts at present towards them the attention of the civilized world, and renders the question of their respective boundaries a matter of general interest. In order to form a clear conception of those questions, it is necessary to go back to the origin of both countries, to investigate their history, and to examine the relations in which they have stood towards each other during the various periods of their existence.

This consideration, coupled with the fact of some reports on the state of this question having previously been circulated on behalf of Nicaragua, induced the author of these pages, in the discharge of his duties as representative of Costa Rica, to publish in Europe, above a year ago, the present account and history of the conflicting claims between the two countries. However, as the former editions were in the French and Spanish languages, and have not reached the American public at large, it has been deemed expedient to put forth an English version, throwing much additional light upon the subject, in order to set public opinion right, which we regret to observe has been, until now, somewhat unfavorably inclined towards Costa Rica.

Costa Rica and Nicaragua once formed an integral part of what, under the Spanish rule, was called "the Kingdom of Guatemala;" then embracing a vast territory, and a numerous population, entitled by its position to occupy a respectable rank amongst nations, but which, in consequence of internal dissensions, now presents the sad spectacle of several small communities, divided amongst themselves, and each striving to acquire a separate political organization. Unfortunately, the links which connected the provinces of the old kingdom with their colonial capital were never very firmly cemented, owing to the difficulties of communication, the want of

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good roads, and the great distances intervening; whilst the circumstance of each province possessing a certain extent of sea coast, and most of them *ports* on both oceans, seemed to lessen the necessity for their remaining united. It is to the above mentioned causes, combined with the influence of the example of the prosperity of the United States, that we must ascribe the adoption of the federal system, which our country was not prepared for, and which transformed the *Provinces* into independent *States* or political bodies, each one having its own peculiar government. Soon their fatal separation took place, and its result has been their ultimately becoming what they now are—small independent *Republics*, completely isolated and at variance with each other. It should, however, in justice to all parties, be here noticed, as an important feature, that Nicaragua more than any one of the five provinces of Central America, signalized itself by disunionist tendencies, acting therein under the influence of her ancient jealousy of Guatemala, the late capital of the kingdom, and blinded by the expectation of securing for herself exclusively the advantages of the contemplated inter-oceanic canal. The accuracy of this statement will appear in the sequel of this essay.

Agreeably to our promise, we shall now proceed to lay before the public a detailed account of the case, with reference to the boundaries of Costa Rica and Nicaragua.

But, in the first place, let us concisely state what are the points at issue between these two Republics.

1st. Costa Rica maintains that her territory commences at the harbor of San Juan, and thence runs along the southern bank of the river of that name, up to within fifteen leagues of the Lake of Nicaragua, this being the boundary formerly belonging to the jurisdiction of the ancient province of Costa Rica; and she likewise claims the joint right of navigating the aforesaid river and lake. Nicaragua pretends that the division line ought to be traced from some point midway between San Juan and Matina to the river Salto, and claims an exclusive right over the river and lake.

2d. Costa Rica maintains that the district of Guanacaste has been finally incorporated with the Republic, and that consequently the fifteen leagues reserved as above stated, together with the shores of Lake Nicaragua, from San Carlos to a point opposite the river La Flor, on the Pacific, belong to the Costa Rican Republic. Nicaragua refuses to acknowledge the validity of the annexation of this district to Costa Rica, and claims Guanacaste as a part of her dominion.

Having thus acquainted the reader with the precise nature of the differences which we are about to discuss, it is time that we should begin our researches, dividing this labor into as many parts as the countries in question have experienced marked changes in their political condition.

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The territories now known under the names of Costa Rica and Nicaragua, formerly inhabited by various small tribes of aborigines, were discovered and settled by different Spanish adventurers. In the course of time, the cabinet of Madrid thought proper to form one single province, by uniting the two, under the authority of an officer called the Intendant, (Intendente.) That functionary, like those of equal grade existing in Honduras, San Salvador, and Chiapas, was subordinate to the captain general of the so-called kingdom of Guatemala, who resided in the city of the same name. The amalgamation, nevertheless, of Costa Rica and Nicaragua was never complete, and the former province always maintained its own particular governor, independent of the Intendant, residing in Leon, in every thing relative to questions of *war and* the administration of *justice*, and was only subject to his authority in *financial* affairs. The intervening district, formerly called *Nicoya*, and now *Guanacaste*, from its chief towns being so named, was sometimes placed under the immediate jurisdiction of the authorities at Leon, and at other times under that of Cartago, the capital of Costa Rica. The traffic of those countries by the Atlantic ocean was at that period very insignificant, either through fear of the pirates or buccaneers, who infested the coast, or owing to the system of monopoly and sequestration observed by Spain. The San Juan, that magnificent river, was very little frequented. Military garrisons had only existed at San Carlos, where the river issues from the lake, and where a fort was constructed, as well as in the place now called Castillo Viejo, on account of a ruined fortress near that spot. It was not until the close of the last century, (1796,) that a detachment of troops was placed at the mouth of the San Juan. Such a garrison was naturally placed under the immediate control of the highest authority of the province, who ruled jointly over Costa Rica and Nicaragua, and who resided at Leon. All the aforesaid posts were often garrisoned with Costa Rican soldiers. No road existed then leading from the table lands of Costa Rica to the mouth of the river, while the intercourse between the towns of Nicaragua and the said port offered no difficulties, it being but necessary to traverse the lake and descend the river in boats. At certain periods of comparative prosperity for Costa Rica, the port of Matina, on the Atlantic, had satisfied the necessities of commerce; but frequent descents of pirates had caused that port to be neglected.

It was about that time that the Spanish Government issued a royal decree, dated Aranjuez, the 26th of February, 1796, to the following effect: "His Majesty, being desirous that the province of Nicaragua and the other provinces of the kingdom of Guatemala, which are situated more than

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three hundred leagues distance from the capital, and from the ports of Omoa and Santo Tomas de Castilla, may be enabled to carry on a direct trade with the mother country, without being subject to the inconveniences of a long distance, has been pleased to declare that the harbor of San Juan de Nicaragua, on the river of the same name, shall be a port of the second class; and it is further provided, that, for the present, such a privilege shall be considered as extending to the city of Granada, on the Lake of Nicaragua, up to which lake said river is navigable; and consequently all the immunities and exemptions, to which San Juan is entitled, shall for the present be also enjoyed by the city of Granada." (a)

The perusal of this decree is sufficient to establish, beyond all question, the right of Costa Rica to the port of San Juan. The object of the privilege granted to San Juan was to benefit the province of Nicaragua, and other provinces, distant upwards of three hundred leagues from the capital. In whatever light we may consider this point, it will appear that Costa Rica was entitled to the privilege, both as a member of the Intendancy of Nicaragua, and by its ranking among the provinces distant more than three hundred leagues from the capital. Any one casting a glance over the map, will acknowledge at once that no country could more largely profit by the opening of the new port than Costa Rica. The extension of the grant to the city of Granada was but a common effect of the Spanish system of erecting interior custom-houses, or "dry ports." However, there is hardly any ground for the inference that it was intended by the royal decree to forbid the other provinces, alluded to in the same decree, from carrying on a commercial intercourse with Spain by any other route than that of Granada.

The Nicaraguans quote another royal decree of the Spanish King, granting ten leagues on each bank of the river for the purpose of their making settlements on those lands; but even waiving the doubt entertained as to the authenticity of the decree, (for no one had heard until lately of such a document,) it is evident that, since the persons to whom the supposed grant was made, never founded any settlements, they never acquired any title over the said lands, and that, if they never complied with the condition of the grant, they never became the legal owners of the soil in question; and, consequently, that such a decree does not confer on the city of Granada any peculiar right, either of jurisdiction or dominion, over the lands adjoining the banks of the river. Every thing remained as it had been before; that is, the river under the authority of the general governor of the

(a) See documents sent by the Government of Nicaragua to the Government of the United States; Ex. Doc. No. 75, printed by order of the House of Representatives, in 1850, pages 49 and 50.

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province; the northern shore, reputed as a portion of the desert territories, occupied by a few wandering tribes, called Zambos and Moscos; and the southern shore considered as belonging to Costa Rica.

We can establish this point on the following authorities:

BOUNDARIES OF THE ANCIENT PROVINCE OF COSTA RICA.

CHARTER GRANTED TO GUTIERREZ. (a)

According to a charter granted by the King of Spain, under date Madrid, 29th November, 1540, to Don Diego Gutierrez, for the conquest and settlement of the then province of Cartago, the limits and jurisdiction of said province are described as extending from sea to sea, and from the frontier of Veragua, running to the westward to the great river (Rio Grande,) provided that the coast adjoining said river on the side of Honduras should remain under the government of Honduras, with power to Gutierrez to conquer and settle any island in said river which should not be previously located by Spaniards; and the right to the navigation, fisheries, and other advantages of said river; and provided that he (Gutierrez) should not approach within fifteen leagues of the Lake of Nicaragua, because these fifteen leagues reserved, as well as said lake, were to remain in the possession of the government of Nicaragua; but the navigation and fisheries, both in that part of the river granted to Gutierrez, as in the fifteen leagues reserved, and in the lake, should be possessed in common, or conjointly with the inhabitants of Nicaragua.

Diego Gutierrez having, in virtue of said charter, occupied the country, and assumed the title of governor and captain general of the province of Cartago, reported to the Emperor Charles V, in a letter dated Cartago, 30th November, 1543, that he had complied with his Majesty's injunctions not to approach within fifteen leagues of the Lake Nicaragua, but that the Desaguadero (b) outlet, issuing from said lake, held its course midway through the coast of his government; and that if the liberty to come within fifteen leagues of the lake were denied to him, the grant would be of little value, and he would have spent his fortune without due remuneration. He therefore requested that his Majesty would issue the necessary orders. The then governing prince, being at Valladolid, ordained, under date 9th May, 1545, "that every part should be explored and properly provided for, and that in the mean time he (Gutierrez) should be guided by his charter and instructions."

(a) Unpublished documents existing in the archives of Spain, of which a certified copy is in my possession. F. M.

(b) Name generally given to the San Juan river in old documents, and meaning *the outlet.*

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CHARTER GRANTED TO ARTIEDA. (a)

Another charter was granted by King Philip II, to Don Diego de Artieda, under date Aranjuez, 18th February, 1574; according to which, the said Artieda was empowered to explore, settle, and pacify the province of Costa Rica, and other lands and provinces comprised within it, from the North Sea (Atlantic) to the South Sea (Pacific) in breadth, and from the frontier of Nicaragua, in the vicinity of Nicoya, to the valleys of Chiriqui, in the province of Veragua, in length.

He was appointed governor and captain general of Costa Rica, and of the other above mentioned lands, during his own life and that of his heir, and the boundary line of his jurisdiction is again described as extending "from the North sea (Atlantic) to the South sea (Pacific) in breadth, and from the frontier of Nicaragua, in the vicinity of Nicoya, to the valleys of Chiriqui, in the province of Veragua in length towards the south, and from the mouths of the *Desaguadero* (outlet) which is in the direction of Nicaragua, all the land running as far as the province of Veragua towards the north.

REPORT OF DE LA HAYA. (b)

Don Diego De la Haya, governor and captain general of Costa Rica, in a report addressed to the Spanish government, under date Cartago, 15th March, 1719, writes thus:

SIRE: This province is situated between those of Veragua and Nicaragua, and it is bounded, likewise, on the south by the small strip of land called "Partido de Nicoya." Its length is 160 leagues, beginning from the river Boruca, (which is the division line between it and the jurisdiction of the province of Veragua,) and running to the river called the Salto, (c) which separates this province from that of Nicaragua. Its width is 60 leagues, extending from the valley and coast of Matina on the north, to the port of Caldera, watered by the Pacific ocean. The River *Tempisque* (c) divides the jurisdiction of this province from the "*partido* (district) and jurisdiction of Nicoya."

From De la Haya's statement it appears that the Costa Ricans had subdued the tribe of Talamancas, occupying that part of the country which

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(a) Unpublished documents existing in the archives of Spain, of which a certified copy is in my possession. F. M.

(b) Unpublished documents existing in the archives of Spain, of which a certified copy is in my possession. F. M.

(c) The river Salto takes the name of Tempisque when approaching the Pacific, where it discharges its waters into the Gulf of Nicoya, at its corner called *El Bolson*, the *large bag*, from its shape.

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lies between the Bay of Boca Toro and the Golfo Dulce, and had erected at the lower end of the aforesaid bay the city of Conception, on the river Estrella, and other towns. He mentions that in some places the breadth of Costa Rica from sea to sea did not exceed twenty leagues. "The province of Talamanca," he says, "is a continuation of this in an easterly direction. On this portion of the coast Boca Toro bay and Almirante's bay are situated."

JUARROS' STATISTICAL AND COMMERCIAL HISTORY OF THE KINGDOM OF GUATEMALA. (a)

"Costa Rica, (he states,) extends from the river Salto, which separates it from Nicaragua, to the district of Chiriqui in the jurisdiction of Veragua, (New Granada,) a distance of 160 leagues from west to east, and from the Atlantic to the Pacific ocean, about 60 leagues. Its limit on the Atlantic is from the mouth of the river San Juan to the little island, called "Escudo de Veragua," and on the Pacific from the mouth of the river Alvarado, (b) the boundary of the province of Nicaragua, to the river Boruca, which terminates the Kingdom of Tierra Firme, (New Granada,) to the westward."

HERRERA'S DECADES OF THE CONQUEST OF AMERICA. Edition of 1725.

Costa Rica.—"This province and government, the easternmost of Spanish North America and of the Kingdom of Guatemala, may be 90 leagues in length from east to west, from the limits of Veragua to the limits of Nicaragua, to which latter province it is adjoining on the north and on the west * * * * it has ports and landing places on both oceans, there being many rivers in the distance intervening between Nicaragua and Veragua, belonging to this government, and the bays of San Geronimo and Caribaco, (Boca Toro), close to the boundary with Veragua * * * * ."

(a) Spanish edition published in Guatemala, 1812. English translation by J. Baily, published in London, 1823.

(b) According to Baily's map of Central America, published in London by Trelawney Saunders, the *Alvarado* is a different river from the *Nicoya* or *Salto*. The former empties its waters into the Gulf of Papagayo, the latter into the Gulf of Nicoya; and is likewise called *Tempisque* river. The natives now-a-days give the names *Tempisque* and *Nicoya* to that part of the river which is near the sea; that of *Salto* where it is far inland. (See annexed chart.) Juarros himself considers the *Alvarado* and the *Nicoya* as two different rivers. Speaking of Nicaragua, he mentions them both as separating that province from Costa Rica. (Page 61.)

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ALCEDO'S GEOGRAPHICAL AND HISTORICAL DICTIONARY OF THE NEW WORLD. EDITION OF MADRID, 1786.

COSTA RICA.—"A province and government of the Kingdom of Guatemala, in the Spanish possessions of North America; it is adjoining on the north and west that of Nicaragua; on the southeast it is bounded by the province of Veragua, in the kingdom of Terra Firma; on the SW. and NW. it is watered by the Pacific ocean, and on the NE. by the Atlantic ocean. It is nearly 90 leagues in length from east to west, and 60 leagues in breadth from north to south. * * * * It has ports both on the Atlantic and on the Pacific, and the magnificent bays called San Geronimo and Caribaco, (Boca Toro,) are belonging to it * * * * "

CHIRIQUI.—"This very name is likewise given to a river of this province (he has just been treating of the province of Chiriqui) which has its origin on the mountains lying on the southern side, and it directs its course to the Pacific ocean, marking the division line of this province from that of Costa Rica in the Kingdom of Guatemala."

NICARAGUA.—"It is bounded on the south by Costa Rica. It is fifty leagues in length from east to west, and about as much in breadth from north to south."

FIRST CONSTITUTION OF COSTA RICA.

"The territory of the State extends *for the present* from the river Salto, which divides it from Nicaragua, to the river Chiriqui, bounding the Republic of Columbia. Its limits on the Atlantic are from the mouth of the river San Juan to the Escudo de Veragua; and on the Pacific, from the river Alvarado to that of Chiriqui." The first constitution of the State of Costa Rica was issued on the 21st of January, 1825. The Costa Ricans, at that time, already expected that the Federal Congress, when fixing the boundaries of the State, would annex Guanacaste to Costa Rica. This is the reason why they qualified the Salto frontier as only *for the time being* or *ad interim*. If, furtheron, the *mouth* only of the San Juan is spoken of, this does not imply that the territory of Costa Rica stopped there, and did not extend along the *southern bank* of said river."

SECOND PERIOD. 1821—1823. INDEPENDENCE AND MEXICAN EMPIRE.

The right inherent to every independent society, whether great or small, of disposing of its own destinies, and procuring for itself the greatest possible amount of happiness, admits of no question, nor can it be circumscribed within arbitrary limits. Other principles, nevertheless, modify

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the exercise of such a right: 1st. That of the preservation or maintenance of the *statu quo*, the normal condition or order of things already established. 2d. The power of carrying into effect and sustaining the changes which it may be designed or intended to be done. A small portion of any society should never aspire (indeed it would not be advisable for it to aspire) to changes or transformations, whilst the great mass of that society remained indifferent thereto; and should such changes become absolutely necessary to the minority, it should never undertake them without possessing the means of carrying them into execution, either through its own efforts or assisted by its allies or associates. Such a right, belonging to every town or village; to every district, department, or province; to every State or nation, when providing for its own welfare, authorizes them to transform, combine, and separate themselves in whatever manner and whenever they think best; to join together in order to form a large society; to separate from the mass with which they were formerly consolidated, with a view to become independent communities; to withdraw from certain centres, and to attach themselves to new ones. Such a right, indeed, finds no limit, except in the power of exercising it. (a)

The Spanish colonies in America, agreeably to this rule, claimed the power of declaring themselves independent of the mother country. The particular provinces of some of the colonies have likewise asserted this power, and in many instances withdrawn from the authority of their colonial capital. Provinces have been split into fragments, and numerous other transformations have taken place. The kingdom of Guatemala, comprising amongst others the provinces of Nicaragua and Costa Rica, made use of such a right by severing the ties of connexion with the mother country. The Intendency of Costa Rica and Nicaragua seceded from her former colonial centre, the city of Guatemala; the Intendency was dissolved by its own act, by the disjunction of its two great members, Nicaragua and Costa Rica; and, finally, the district of Nicoya, which seemed to have been designed by nature to form a portion of the latter State, adhered to it, instead of joining the former. To deny that it possessed such a right would be inconsistent with the rules of logic and sound principles. To assert that it did not exercise it, of its own free will, would be to contradict a historical fact. The inhabitants of Guanacaste, (by which name we shall hereafter designate this district,) took of their own accord the resolution of joining Costa Rica, without a single soldier of the latter country

(a) We are far from advocating secession or the dismemberment or dissolution of a country. On the contrary, we hold that a majority is justified to restrain a refractory minority in certain cases; and that the formation of great communities is necessary for the advance of civilization. When pleading the *natural right* of the people, we presume a disorganized condition of society.

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being on the soil of the district in question, and when they had nothing to fear from a State so essentially pacific. Without looking for examples to any other country, Central America herself presents several cases, (although none so striking or so justifiable as that of Guanacaste) of the exercise of this primordial right. For instance, there is the old province of Chiapas, which refused to enter into the Central American confederation, and annexed itself to Mexico. Soconusco, a portion of Chiapas, persevered in continuing united to Guatemala, in spite of the resolution of the chief town of the Intendency of Chiapas, and remained neutral, by subsequent international agreement between Mexico and Central America, until Mexico arbitrarily occupied it in 1841, in consequence of the dissolution of the Federal Government in Central America. Sonsonate, a district formerly belonging to the Intendency of Guatemala, and governed by the captain general of the kingdom, annexed itself, in 1823, to the then newly formed State of San Salvador. It is said, that the force of arms has been employed in all these latter instances, (save the case of Soconusco, in 1823.) But no impartial person has ever made such a statement in regard to Guanacaste.

During the period referred to, namely, soon after the proclamation of independence, two parties sprung up, the one composed of those desiring to create an independent nation, composed of the provinces formerly comprised within the kingdom of Guatemala, and the other preferring incorporation with the improvised empire of Mexico. The imperialists were speedily defeated in Costa Rica, where the supreme authority was provisionally placed in the hands of a provincial deputation or assembly. This was not the case with Nicaragua. There the contest was kept up for a considerable time, between the different towns, every one of which may be said to have had its own separate government, and peculiar administration. The district of Guanacaste, during that interval, maintained, like many others, an existence entirely independent of Leon, its old provincial centre.

The *partido* of Nicoya, or district of Guanacaste, lying between Nicaragua and Costa Rica, possessed, according to the best authorities, the following limits:

BOUNDARIES OF GUANACASTE.

Juarros, the historian of the country, when describing the limits of the district of Nicoya, now called Guanacaste, states that "it is contiguous on the westward to the corregimiento or alcaldia mayor of Sutiava, that it is watered on the south by the Pacific ocean; on the north by the Lake of Nicaragua; and that it stretches eastward as far as the boundaries of Costa Rica."

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Alcedo, in his above quoted Geographical Dictionary, published in 1788, describes thus the department of Nicoya :

" A province and alcaldia mayor of the kingdom of Guatemala, in Spanish North America ; its boundaries being on the east the province of Costa Rica ; on the north the Lake of Nicaragua ; on the west and south the Pacific ocean ; it is of very small extension; and is considered as a *partido* (district) of the province of Nicaragua ; the governor of which appoints its alcalde mayor as his deputy."

The river La Flor was then the recognised division line between Sutiava and Nicoya, as shown by the land titles of the estates or farms lying on either side of that frontier, and as practically established from time immemorial for the local administration of the respective parishes.

THIRD PERIOD—FEDERATION. 1823—1840.

On the downfall of the Imperial Government, the Mexican general who was in command in Guatemala, acknowledging the impossibility of maintaining those countries in subjection to Mexico, convoked a constituent assembly, composed of representatives from all the provinces of the old kingdom of Guatemala. The provinces responded to his call ; the Congress met, adopted the federal system, and decided that the several provinces should be at liberty to organize their peculiar governments as free States of the future federation. Costa Rica, in accordance with those enactments, was to form one State, and Nicaragua another. The district of Guanacaste was to become a portion of the latter ; but whilst Costa Rica succeeded in organizing itself speedily and peacefully, civil discord raged furiously in Nicaragua. The inhabitants of Guanacaste on this account, in order to avoid the ravages of anarchy, determined in 1824 to annex themselves to Costa Rica, at that period already possessing an administration of her own as a State; Costa Rica gave her assent to the annexation in 1825, and the Federal Congress sanctioned it on the 9th of December, 1825; that annexation thus acquiring all the force of a constitutional accomplished fact. Nicaragua, in the mean time, was not able to frame and promulgate its constitution, nor establish its particular form of government until April, 1826. (a)

Republicans, who hold that the will of the people is the supreme law of society, cannot raise any question as to the validity of the annexation of Guanacaste to Costa Rica, without contradicting their own political creed. Whilst those who believe in "the divine right of kings" and in the transmission of authority, will incline to the opinion that Guanacaste ought to belong to Spain, the mother country, should it not be considered as belonging to Costa Rica.

(a) Efemérides de los sucesos mas notables ocurridos en Centra America por Alejandro Marure. Guatemala, 1844.

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Guanacaste did formerly belong to the *Province*, but never to the *State*, of Nicaragua. The celebrated American author, Mr. Wheaton, in his "Elements of International Law," (a) gives the following definitions of what constitutes a State.

"Sovereignty is acquired by a State, either at the origin of the society of which it is composed, or when it separates itself from the community of which it previously formed a part and on which it was dependent." Page 56.

"A new State springing into existence does not require the recognition of other States to confirm its internal sovereignty. The existence of the State *de facto* is sufficient in this respect to establish its sovereignty *de jure*. It is a State because it exists." *Ibid.*

"The habitual obedience of the members of a society to a common political authority must have once existed in order to constitute a sovereign State." Page 58.

According to the doctrine, thus quoted, it is obvious that Nicaragua was not a State until 1826, one year after Guanacaste had joined Costa Rica; and, consequently, the former has no reasonable title to claim the allegiance of that district.

Even if it should be argued that a representative of Guanacaste was sitting, and took part in the proceedings of the constitutional assembly or convention of Nicaragua, this could only prove that the district in question might have formed a portion of the new State of Nicaragua, had not anarchy and civil war, in that country, deterred it from so doing. But the directly and solemnly expressed desire of the inhabitants of Guanacaste, in favor of their annexation to Costa Rica, which determination they carried into immediate execution, is a stronger argument than the accidental presence of a representative from that district, in the first convention of Nicaragua. There were also in the federal Congress representatives from all the towns of Nicaragua and Guanacaste, and the annexation of this district to Costa Rica was sanctioned with their concurrence.

We beg leave to transcribe here in full that important resolution of the federal legislature. It runs thus:

"The President of the Federal Republic of Central America.

"Whereas the Congress (House of Representatives) has passed, and the Senate has confirmed, the following decree:

"The Congress of the Federal Republic of Central America having duly considered (1) the reiterated petitions addressed by the authorities and municipal corporations of the district of Nicoya, praying that this district be dismembered from the State of Nicaragua, and annexed to the State of Costa Rica. (2) The *de facto* union that the people of the same district have actually effected(b) with the aforesaid State of Costa Rica, during the disturbances of Nicaragua; and (3) the geographical situation of the above mentioned district, decrees as follows:

(a) Third edition, Philadelphia, 1846.

(b) In 1824.

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"Article 1st. For the present, and until such a day when the demarcation of the territory of each State shall be decided upon in compliance with the 7th article of the constitution, the district of Nicoya shall continue to be separated from the State of Nicaragua, and incorporated with the State of Costa Rica.

"Article 2d. The aforesaid district shall, in consequence, recognise the authorities of Costa Rica as its own; and shall have, in the legislature of that State, the representatives it may be entitled to.

"Article 3d. The present decree shall be communicated to the respective legislatures of Nicaragua and Costa Rica.

"To the Senate.

"Issued in Guatemala, on the ninth of December of the year one thousand eight hundred and twenty-five.

"MANUEL FRANCISCO PAVON,
"*President*,
"JOSE FRANCISCO DE CORDOVA,
"*Representative Secretary*,
"MARIANO GALVEZ,
"*Representative Secretary*.

"House of the Senate, Guatemala, 18th March, 1826.

"To the executive.

"MARIANO BELTRANENA,
"JUAN DE LOS SANTOS MADRIZ,
"*Senator Secretary*.

"National Palace, Guatemala, 18th March, 1826.

"Wherefore, let it be executed.

"MANUEL JOSE ARCE,

"By order of the President.

"JUAN FRANCISCO SOSA,
"*Secretary of State in the Department of Internal and External Relations.*"

It cannot be denied that the decree we have just perused only bears the character of a provisional measure "until the Federal Congress, making use of the power vested in it by the seventh article of the constitution of the Republic, should finally fix the respective boundaries of the States."* Nothing could better accord with the principles of the federal constitution adopted than the provision in question. That honorable body, having a due regard for the freely expressed opinion of the people of Guanacaste, postponed, nevertheless, to a future day the discussion of that important subject, in order to give it a more mature and deliberate consideration.

It may be alleged that Nicaragua, in virtue of this measure, still nourished the hope of acquiring Guanacaste at some future period; but such a *hope* only rested upon chance, and was far from constituting a *right*, since Congress could have adopted other and entirely different combinations, such as making Guanacaste a federal territory, raising it to the rank of a

*Article 7th of the federal constitution, issued on the 22d November, 1824, ordained "the limits of the territory of each State shall be fixed by a law which shall be considered as part of the constitution in presence of all the information necessary."

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new State by dismembering, in order to render it stronger, a part of Costa Rica and Nicaragua, or making a State of the whole three combined. The most probable supposition, however, is, that had the federal Congress continued in existence, it would have finally confirmed the wishes of the inhabitants of Guanacaste, viz., their annexation to Costa Rica, as the most suitable arrangement for their own and the general interest.

With regard to San Juan, one of the first acts of the federal Government was to establish a military garrison, and subsequently a custom-house, on the mouth of that river. These establishments were at first placed on the southern, and subsequently on the northern, side of the bay formed by the river at the point where it flows into the Atlantic ocean. No municipal corporation, however, was ever created there, nor did Nicaragua ever exercise any local jurisdiction, either at the mouth or at any other point on the river. Costa Rica, in the mean time, had discovered, as early as 1821, that a communication could be opened with San Juan by the way of the Sarapiqui river. A mule road was constructed, and the Costa Ricans commenced a regular trade in that direction, on the same footing and terms as the inhabitants of Nicaragua. The use of the port was open to every body, and consequently, as long as the federal union was preserved, the question of boundaries was not agitated, nor was there at that period any occasion for raising it.

THIRD PERIOD. 1840—1847.

TRANSFORMATION OF FEDERAL STATES INTO SEPARATE INDEPENDENT REPUBLICS.

The annals of Central America will ever record the active part the Nicaraguans took in the dissolution of the national government after having, from beginning to end, manifested little obedience to the federal constitution and laws. Costa Rica, on the contrary, was remarkable for her strict adherence to the federal compact; but, unable to prevent the approaching crisis, she at last was compelled, though in a rather passive manner, to follow the general example, and to acquiesce in the proposed change, preparing herself from that moment for the disputes, which it was easy to foresee would soon arise with the Nicaraguans, whose ambitious views could not be concealed from her.

Guanacaste, when the change in the institutions of the Central American States to which we are alluding took place, again exercised (a) the

(a) All its parishes acceded to the act of 27th May, 1838, and by its representatives "in the general convention of the State which met for that purpose, concurred in the declaration given by that convention on the 14th November of the same year that the people of Costa Rica assumed the full exercise of their sovereignty.—MARURE'S EFEMERIDES.

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right of disposing of its own destinies, and declared its intention to remain attached to Costa Rica. The federal compact having been annulled, Congress dissolved, and the federal administration, against which Nicaragua had shown such a spirit of hostility being at an end, the reserve imposed by Congress in regard to Guanacaste ceased likewise to exist; that district again recovered its natural liberty, and Costa Rica was justified, agreeably to the wishes of the district, in regarding it as finally incorporated in, and declaring it to be an intregal portion of, her territory.

In fact, the reserve established by the Federal Congress in regard to Guanacaste disappeared at the very moment when the national administration was dissolved. The one cannot exist without the other. If we grant, therefore, for the sake of argument, that the *reserve* exists, it would ensue that the provisions of the federal constitution of 1824 ought in every respect to be carried out. In virtue of that system, the federal authorities were the only competent ones to conclude contracts for the inter-oceanic canal communication, to accredit representatives abroad, &c., &c.; and of course all the acts of Nicaragua during latter years would, in such a case, become null and void. If the federal laws are to be observed in one instance, let us abide by them in all.

The mistake of the Nicaraguans is, that they pretend to apply to the present condition of things that which only belonged to a former state of things. They claim to possess now, as a sovereign *Republic*, the same rights that they possessed when a *Province* of Spain, and entertain the expectations which they nourished while yet a simple *State* in the federation of Central America.

Circumstances, nevertheless, counselled the Costa Rican Government to be extremely cautious and circumspect in its conduct. The Costa Ricans, as it is well known, are a very industrious and quiet people, entirely devoted to agriculture and commerce, depending for their living on the exportation of the valuable productions of the country. Their power lies in a small district situated in the midst of a vast territory upon the high table lands formed by the mountain ranges. Any war with their neighbors, or blockade, would, consequently, prove ruinous to their interests, even in the event, (as would probably be the case,) of their being victorious. Hence their endeavors to avoid hostilities, not so much from fear of the issue, as from fear of the disastrous consequences. They think that men should not spend their lives in fratricidal struggles, but rather in improving their social condition by dint of labor and industry.

Nicaragua presents the reverse of this picture. Her inhabitants, possessing many good and noble qualities, have shown a lamentable fondness for war and domestic broils, both amongst themselves and with their neighbors; scattered over a large extent of country, their general occupa-

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tion is the rearing of cattle, which seems to form, almost exclusively, their means of subsistence. It is therefore obvious, that they are in a position to carry on a protracted war without any great inconvenience to themselves.

This explains why Costa Rica has for a long time abstained from claiming her rights to Guanacaste, in their full extent, and also why she has condescended to propose negotiations and compromises, in order to avoid a war with Nicaragua. Such a course should not be considered as indicating a doubt in regard to her right, or a hesitation on her part to maintain the same. It is further to be remembered, that whilst there remained any hope of the Federal Union being restored, it was very proper for Costa Rica to declare, as she did, without insincerity or humiliation, in her constitution of 1843, "that the boundaries of Nicaragua would be ultimately fixed, when the National Convention (as it was then expected) should meet, and when that body should have tried the justice of her claims." It was very natural to say, in order to avoid provoking the susceptibility of the Nicaraguans, that Costa Rica would keep the district of Guanacaste as a deposit, confided by the National Congress, not to be given back but with the consent of the depositor.

On the final dissolution of the federal powers, the Government of Nicaragua, as the nearest to the port of San Juan, took possession of the custom-house existing there, and began to levy, most presumptuously and injudiciously, a high duty of transit on all merchandise passing to and from Costa Rica. The latter country abstained at that time from remonstrating against such a proceeding, on account of the considerations above stated, in the hope that the Union might yet be organized, and from the circumstance that all the trade of Costa Rica was at that time carried on through the Pacific.

During the period to which we allude, three embassies have been sent, with a view to settling the questions between the two countries, to wit: 1st. That of Mr. Oreamuno, envoy from Costa Rica to Leon. 2d. That of Mr. Tijerino, envoy from Nicaragua to San José; and 3d. That of Messrs. Madriz and Escalante, sent from Costa Rica to Nicaragua. We shall treat of each separately.

The first of these emissaries proceeded to Leon just on the dissolution of the Federal Government, and when Nicaragua was engaged in the revision of its State constitution, wherein it was intended to declare the river Salto as the boundary with Costa Rica. Mr. Oreamuno required the recognition of the perpetual annexation of Guanacaste to Costa Rica; and announced the determination on the part of the State he represented to assert, as a boundary line, San Juan and the great lake, as far as La Flor. The Government of Nicaragua could not avoid taking his communication

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into consideration, but it finally agreed to let those points be passed in silence, and declared in the new constitution, "that the boundary lines with the neighboring States should be fixed at a future period, by a law which would be considered as forming an additional article to the constitution." The commissioner retired without having arrived at a satisfactory settlement.

Even in those circumstances of agitation and alarm, not a single instance can be pointed out of the people of Guanacaste showing any symptoms of dissatisfaction on account of their annexation to Costa Rica; still less of their having petitioned Nicaragua to demand the return of the district to that State, as belonging to its dominions. Let any one, who insinuates the contrary, present the documents containing such manifestations or petitions. It would not be consistent with truth, either to assert that Costa Rica has controlled, by coercive measures, the free will of the inhabitants of Guanacaste, since the former country has never kept, nor does it possess the means of keeping, in that district an armed force, sufficient to restrain the movements of the population of the district.

It was under the auspices of an alliance with Nicaragua that the late Governor Carrillo established his dictatorship in Costa Rica. That administration, in many respects very beneficial to the country, lasted from 1839 to 1842, and contributed to develop in the Costa Rican people a spirit of absolute independence, without any endeavor having been made by Nicaragua to check its growth by an opposite policy. However, as the government of Carrillo was strong, whilst Nicaragua was enfeebled by actual disturbances and by her previous wars, the moment did not appear propitious for the latter State to put forward any claim.

But Carrillo's power having been overthrown by Morazan, who, in his schemes for reorganizing the national Union, threatened the existence of all the State governments, and consequently induced them to take up arms simultaneously, Nicaragua thought the contingency a very favorable one for asserting her exaggerated pretensions; and, by a decree dated the 4th of June, 1842, the legislature of the State empowered the Executive to take possession of Guanacaste.

On the defeat of Morazan's attempt, and when that illustrious warrior had met an untimely fate through the general rising of the towns of Costa Rica, the moment appeared still more favorable to carry into execution the above mentioned decree. And we now observe Mr. Tijerino's arrival in San José as envoy from Nicaragua, for the sole purpose of demanding the return of Guanacaste, without proposing any measures by which a compromise could be effected. The proposal of Costa Rica to refer the question to the legislatures of two States having been declined, it will readily be inferred that the mission had no other result than useless protests and counter protests. Every thing remained *in statu quo.*

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We have already stated the reasons which Costa Rica had for retaining the possession of Guanacaste as a deposite made by the Federal Government. This has given rise to the following reasoning: "Well, if it was a deposit, it must be given back to its owner, and that owner is Nicaragua. It cannot be refused on the plea that the depositor (the late Federal Congress) is no more; for Nicaragua is entitled to recover it under any circumstances, just as a minor, whom nobody can keep from the possession of his property, on his emancipation or on becoming of age, even if his tutor, or guardian, or trustee, should have disappeared."

We should briefly reply to such sophistry—that the State of Nicaragua was never the owner of Nicoya or Guanacaste. A people or a country can never be considered as inanimate things. In the present instance, if the depositor (the Federal Congress) is no more, the deposit itself, composed of rational beings, is the only power on whom the right of disposing of its own destinies has devolved.*

On the return of Mr. Tijerino to Nicaragua, a ministerial correspondence was kept up between the two Cabinets of Leon and San José, in which we find a communication addressed from the former to the latter, under date of July 18, 1843, signed F. Castellon, observing that, in the new constitution which the convention or constituent assembly (the fourth convention) of Costa Rica was then framing, the article describing the territory was drawn as follows:

"The State considers as the limits of its territory: on the west, the mouth of the river La Flor, and thence running along the shores of Lake Nicaragua and the banks of the river San Juan, as far as the mouth of this river on the Atlantic; on the north, the Atlantic coast from the mouth of San Juan to the island Escudo de Veragua; on the east, from the last mentioned point to the river Chiriqui; and, on the south, from the mouth of the latter river to that of river La Flor."

Nicaragua complained that the above declaration was injurious to her rights, and expressed the desire "to have the questions amicably decided by the means already proposed, which were worthy of consideration." (a)

The Costa Rican Assembly consequently, as a mark of regard for the sister State, added to the declaration the following words: "Provided, that the frontier on the side of Nicaragua, shall be finally fixed when Costa Rica shall have been heard by her representatives in a National Convention of all the States, or when, this convention failing to meet, the affair shall have been submitted to the impartial judgment of one or more States of the Republic."

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*The district contains nearly 10,000 inhabitants.

(a) See Mr. Castellon's (the Minister of Nicaragua,) report, page 293, Ex. Doc. No. 75, printed by order of the 31st Congress, 1st session, of the United States.

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The Government of Nicaragua appeared to be satisfied with that addition, and the two countries thus contracted a solemn engagement to let every thing remain as it was, to abide by the decision of a third party, and not to dispose of the disputed territory.

Costa Rica abstained from any proceeding calculated to destroy that good understanding, but Nicaragua adopted a contrary course. She began to act as in (1844) the full exercise of sovereignty, by sending ministers abroad. She asked, as it is notorious, the protectorate of the late King Louis Phillipe, of France. That object having been frustrated, Mr. Castellon, her representative, proceeded to negotiate with a Belgian company for the construction of the ship canal between the two oceans; and two years after, Mr. Marcoleta, in a similar capacity, concluded a second contract with Prince Louis Napoleon, (then a prisoner at Ham,) for the execution of that enterprise, (a) granting to him, on both sides of the San Juan river and on the lake, a large extent of land, and consequently disposing of territories claimed by Costa Rica, and of an undertaking in which both States at least, if not all Central America, were concerned.

In this way Nicaragua not only was the first to break faith, but she also gave the final blow to the Union by proceeding to negotiate with foreign powers on her own and sole account.

Although by so doing we shall deviate from the chronological order of events, we will add in this place, that this same spirit has been constantly manifested by Nicaragua. In 1847, she negotiated a treaty with the sister of the Mosquito King. In 1848, when the harbor of San Juan was occupied under the authority of the Mosquito King, she accredited ministers abroad, and took upon herself the arrangement of the whole question with Great Britain, instead of acting in concert with Costa Rica, who, with herself, has an equal claim to that port. (b) She has subsequently made grants, concessions, and contracts of various kinds without any reference to Costa Rica, both with Americans and Europeans. (c)

Such have been the considerations (if we may be allowed to borrow some phrases from the report circulated by our able colleague, Mr. Castellon,) which the State of Nicaragua has shown for its neighbor, its friend, its brother, from whom it has received so many *positive* proofs of loyalty and kindness ! ! !

(a) See collection of documents printed by order of the Congress of the United States, entitled "31st Congress, 1st sess., Ex. Doc. No. 75, page 207."

(b) "What has been stipulated in this agreement, will not hinder the Government of Nicaragua, from soliciting, by means of a commissioner to Her Britannic Majesty, a final arrangement to these affairs." Treaty done at the Island of Cuba, on the 7th March, 1848.

(c) See contracts with Mr. Wheelwright, Brown, White, &c., &c., &c.

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Such has been the care taken by Nicaragua against the dismemberment of the territory of Central America, and her sense of the existence of that cherished Union to which (in her own words) the territories in question have always belonged, and ought to belong ! ! !

But, what is the value of professions, when these are contradicted by facts ?

Under such circumstances, Costa Rica could no longer remain inactive on the faith of an *entente cordiale* which had been violated by the other party.

She was placed under the necessity, by the ambition of Nicaragua, of taking extraordinary measures for asserting her rights finally and boldly.

But to continue the thread of our narrative. The third mission was that of Messrs. Escalante and Madriz, sent from Costa Rica to Nicaragua, in 1846. Costa Rica at that time was laboring under commercial distress. After having applied all its energies to the cultivation of coffee, the markets happened to be, that year, exceedingly bad; and it was thought that, so long as the produce of the country was sent to Europe by the long and circuitous route of Cape Horn, we could not, on account of the very heavy freights, insurances, interests, &c., we were compelled to pay, sustain the competition with other countries supplying the same article. It was consequently deemed necessary to contrive the means of shipping our exports on the Atlantic ocean. Matina not answering such a purpose, on account of its not affording the necessary conveniencies of a good port, the Costa Ricans came to the conclusion that the only available means would be a route leading to the port of San Juan, then in the possession of the Nicaraguans.

Consequently Costa Rica, though possessing an equal right with Nicaragua to the use of the port of San Juan, yet animated by a desire for the preservation of peace and a mutual good understanding, determined to send a new mission, composed of the above named gentlemen, (two of her most eminent citizens,) for the purpose of making the proper arrangements, respecting the port in question, with the Government of Nicaragua. But that Government adopted a course which can only be accounted for by the want of a proper appreciation of its own interests, as well as by the want of any true fraternal regard for Costa Rica.

Nicaragua demanded that the Guanacaste question should at once be discussed, and the idea was then broached for the first time, that the only recognised boundary of Costa Rica on the Atlantic side was Matina; and that the waste lands comprised between that port and San Juan belonged equally to the two countries.

Nicaragua, at the same time, laid claim to the territory as far as the Sarapiqui river, and to the farm of " San Alfonso;" the river discovered by the Costa Ricans, and the farm in the possession of French settlers who

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derived their title from Costa Rica. The commissioners of the State of Costa Rica insisted firmly on the river San Juan, the lake, and the river La Flor as their boundary. Nevertheless, as a means of facilitating a final settlement, they were induced to offer some pecuniary sacrifices, and finally again proposed to have all the differences properly settled by arbitration.

Messrs. Zavala and Pineda were appointed by Nicaragua to treat with the representatives of Costa Rica. But those commissioners having been unjustly assailed, by their political adversaries, through the public press, as being from private considerations favorably disposed towards Costa Rica, were not able to carry on the negotiations as they would otherwise have done. They, consequently, did not succeed in bringing about a compromise of the conflicting interests of the two States, as we believe they were desirous to do. They applied for, and adhered strictly to the instructions given to them by their Government.

The respective legations, however, desirous of preventing a rupture, at least for some time, resolved to draw up and sign three different treaties, each one equally preposterous, as will be seen in the sequel. The first establishing an offensive and defensive alliance, a measure obviously repugnant to Costa Rica, whose Government was not willing to be involved in the frequent quarrels of Nicaragua with the other States. The second treaty referred to the navigation of the San Juan. It was therein provided that all merchandise, passing through San Juan to and from Costa Rica, was to pay at that port certain duties of tonnage and storage, and at the same time a duty of two reals (25 cents) per hundred pounds weight on all produce exported, and four per cent. on all kinds of imports. That treaty, moreover, included, amongst other provisions, several clauses in regard to San Alfonso, considering that locality as if it had been a disputed territory. The third treaty had reference to the questions of boundaries, and it was therein stipulated that the question respecting San Juan should be submitted to such arbitration as should be subsequently agreed upon; and that the question of Guanacaste should be referred to the Governments of Guatemala and Honduras, with authority to select an umpire, if one should be needed.

These treaties, as it is natural to suppose, were instantly approved by Nicaragua, whilst in Costa Rica they only excited the just indignation of the people. It is obvious that the latter State could not consent to the contemplated arbitration, or to any agreement whatever, so long as it was couched in terms, or involved premises, impairing its rights and condition even before a verdict could be given.

There is, consequently, very little reason, if any, for reproaching Costa Rica with disloyalty or inconsistency of conduct. If she has constantly

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endeavored to avoid disputes, it is to be accounted for as the result of necessity and of the threatening attitude of her neighbors. But no charge involving the violation of any solemn compact, or the non-fulfilment of any engagement whatever, can be brought against her. Treaties are never considered as binding until they are ratified by both the contracting parties.

We repeat, that the party which has broken faith, and which dealt the last and fatal blows to our lamented Union, is certainly Nicaragua, by having been the most forward to exercise independent sovereignty, as she did when suing for the protection of King Louis Phillippe, when negotiating with the sister of the King of Mosquito, when disposing of the waters and territories over which the contemplated inter-oceanic communication is to pass, and in many other instances.

Neither can it be understood how Nicaragua can blame Costa Rica for claiming foreign interference, even if it were that of the Emperor of China, since the former State was the first to set such an example when, in 1839 and 1840, it invoked the mediation of Great Britain in its contest with the Federal Government.

It is well known that even the United States themselves, the classical land of freedom, in their war of independence, accepted the assistance of France, a European monarchical power; and if this country were not now able, as it is, to cope with any other power upon earth, who can doubt that, in case of a struggle, it would look for allies and help from abroad?

Although the existence of a Protectorate of Great Britain to Costa Rica has always been a fable, yet, in interest and honor, the former nation cannot be indifferent to the rights of the latter. The United States have the same motives—we mean of justice and philanthropy—to sustain them; as may, indeed, be said of other maritime nations.

The homogenity of origin, of race, language, institutions, and religion, are indeed sacred ties, and should have influenced the conduct of Nicarauga in a proper manner, instead of being put forward as a justification of the desire to tyrannize over a smaller State.

Notwithstanding all that has been said to the contrary, it is a fact, that Costa Rica did not come to the resolution of resorting to the extraordinary means of self preservation, which instinct suggested, until she had exhausted all the measures that prudence and a fraternal feeling dictated, in order to arrive at an amicable settlement of her differences with Nicaragua. When, on the 20th May, 1848, it addressed to the Government of that State a communication, to the intent that the construction of a public road, available for carts, to the Sarapiqui river was in contemplation, but that the execution of such a scheme would not alter the dispositions of the Costa Rican Government to conclude with Nicaragua at a future day a

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treaty with reference to the port of San Juan, so soon as said port should be returned to the latter State, the only object in view was to give Nicaragua a new proof of our consideration. A civility which was returned by an intimation that war would ensue if the execution of the proposed work was not delayed until the questions of boundaries were settled.

Many angry comments and complaints have been made with respect to the effusions of a journalist who, writing at San José for a non-official journal on the subject of the occupation of San Juan by the English forces, seemed to applaud that measure.

We say, in reply to this, that the opinions of a private individual, of whatever nature they may be, cannot be taken as expressing the sentiments of a whole community; that the writer was not even a native of Costa Rica; and that he perhaps was actuated in his writings by feelings of the deepest regret, excited by a general view of the erroneous course pursued by the Central Americans, by vexation at their endless feuds, at the neglect of their most important interests, and at the injustice committed by Nicaragua towards Costa Rica. He doubtless at that moment confined his attention to the immediate advantages accruing to Costa Rica from the occupation of San Juan by an enlightened government, that has always followed, in questions of mercantile intercourse with the rest of the world, the most liberal policy, and which was not likely to levy excessive duties of transit at the port in question.

We have already given the reasons why Costa Rica refused her ratification of the treaties signed on the 12th December, 1846. It will, however, soon be seen that that State did not neglect to propose, though fruitlessly, a modification of the above mentioned treaties, and that it always showed a friendly disposition towards the Cabinet of Leon in its official correspondence.

Thus, a new envoy (the third who has been sent by her) was credited for that purpose by the appointment of Don Felipe Molina, the writer of the present essay, as plenipotentiary from Costa Rica to the Government of Nicaragua. Mr. Molina arrived at Leon on the 11th September, 1848, three or four days after Mr. Castellon had left for London to demand the delivering up of San Juan. Mr. Molina met with a most cordial reception from Director Guerrero and his Secretaries, but he was not more successful in the end than his predecessors had been.

We shall proceed at once, for brevity's sake, to speak of that mission, although it does not properly belong to this part of our work.

Don Gregorio Juarez was appointed, on the part of the Government of Nicaragua, to enter into negotiations with Mr. Molina, who proposed to waive all discussion, whether verbal or written, and to confine themselves to devising the means of coming either to a provisional or a definite arrange-

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ment of the questions at issue, in order to avert or remove the probability of a collision. He consequently recommended that no protocol should be drawn. Instead of agreeing to this proposition, the commissioner, Mr. Juarez, took possession of the notes carelessly drawn up by Mr. Molina on bits of paper, and returned next day with a long reply, drawn up in a formal, argumentative style; and a voluminous protocol was in this way created, ending in nothing substantial. But it is apparent that Mr. Molina always endeavored to avoid discussion, and to come to an arrangement, calling the attention of Nicaragua to the pressing necessity of so doing, even if it were a temporary one, as being indispensable to the welfare of both countries.

Accordingly, Mr. Molina tried various ways, and made overtures which will perhaps be thought uncalled for by persons well acquainted with the nature of the rights claimed by Costa Rica.

These conferences show that the representative of Costa Rica proposed, in the way of a final settlement:

First, a boundary line, drawn from Castillo Viejo (1) to La Flor, ceding to Nicaragua the lands comprised between the said line and the shore of the great lake, and moreover relinquishing in behalf of Nicaragua certain sums for which the latter was and is still a debtor to Costa Rica; (2) or,

Secondly the recognition of the whole frontier as claimed by Costa Rica, to wit, the river San Juan, the southeastern portion of the great lake, and the river La Flor, in which case Costa Rica engaged to make Nicaragua a larger pecuniary donation.

In either hypothesis it was, moreover, offered, that should Nicaragua be in want of any of the lands remaining in the possession of Costa Rica, in virtue of such a transaction, either for the actual construction of a ship canal, or for the purpose of ceding them in the form of grants to persons undertaking the same, the Nicaraguan Government would be at liberty to dispose of such lands to the extent of one or two leagues broad along the whole course of the San Juan upon its southern shore, without any compensation, and without Costa Rica's pretending to have the least claim to a share of the profits of the canal so to be undertaken. Costa Rica always preserving her dominion over such lands.

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(1) In these conferences Mr. Molina, on no other authority but the representations of the Nicaraguans, went so far as to take it for granted that settlements belonging to Nicaraguans had formerly existed at Castillo Viejo, besides the military establishments kept there. Such was never the case. That locality was not colonized at any period. However, admitting for one moment that it had been so, still we hold that this would afford no argument against the claims of Costa Rica; since, in that hypothesis, the settlements were within the jurisdiction of Guanacaste.

(2) Forty to sixty thousand dollars, originating in pecuniary loans.

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Mr. Molina also proposed that, in regard to Guanacaste, the wishes of the inhabitants of that district should again be inquired into by joint commissioners of the two countries.

But all this was useless, Costa Rica being placed in the dilemma of being obliged to make an absolute renunciation of her rights in the San Juan and the Sarapiqui, or give up Guanacaste; a thing quite out of the question, since the former rivers are destined to be the great highway of the country into the Atlantic, and the Guanacaste is covered with towns and farms beloging to Costa Rica.

As a provisional settlement Mr. Molina proposed:

1st. To submit the various questions pending to the decision of some foreign power, such as Chili, Venezuela, Belgium, or Great Britain.

2d. To appoint as umpire the Government of the Republic of Guatemala.

3d. To conclude a treaty of amity, commerce, and navigation, apparently advantageous to both countries, but in reality benefiting only Nicaragua, and by which both contracting parties should engage to settle their differences in an amicable manner, to be agreed upon within ten years.

In that treaty, international trade was declared entirely free; an immense advantage to Nicaragua, who supplies Costa Rica with several descriptions of produce, whilst Costa Rica sends nothing to the market of Nicaragua except tobacco on account of the Government of this latter State.

In conformity with the above premises the negotiating plenipotentiaries, in two different instances, arrived at the point of agreeing upon and signing treaties which appeared to be concluded on the 21st and 29th September, of the year 1848. But in neither case was any result produced; for the Nicaraguan commissioner, in both instances, changed his mind at the last moment, and withheld his final assent—a most irregular proceeding, which the impartial reader will know how to appreciate.

The world can well judge of the disposition of Nicaragua when, after assenting to the appointment of Guatemala as umpire, she insisted upon inserting in a contract agreeing to said arbitration clauses prejudicial to Costa Rica, and amounting to a total denial of her rights.

This incident is the strongest evidence that Nicaragua was not actuated by feelings of good faith; that she did not enter fully and frankly into the contemplated arbitration as Costa Rica did; as any party would do when, though fully convinced of the legitimacy of its rights, yet relying on the justice of the same, it submits them to the judgment of disinterested parties, for the satisfaction of the world, and for the sake of maintaining peace with its antagonist.

The forbearance of Costa Rica went so far as to offer to Nicaragua the payment of certain storage duties for the use of her warehouses in San Juan, when she should recover the possession of that port. Instead of this,

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it was required that payment should be made immediately; that Nicaragua should be at liberty to establish a custom-house at the mouth of the Sarapiqui river, where no such establishment had ever existed, for the purpose of collecting duties on the trade of Costa Rica; which proposition was quite inadmissible, as it might be construed into a recognition of the unfounded pretension of Nicaragua to the exclusive navigation of the San Juan.

Mr. Castellon, the representative of Nicaragua in London, seems to have forgotten these particulars in the statement he wrote under date of 7th July, 1849, although he kept, for months, in his possession a copy of the protocol. Let it, therefore, be distinctly understood, that no terms were proposed by Nicaragua except those above stated.

It was thus that each act of deference from the one party was followed by an unreasonable demand from the other, and Mr. Molina soon perceived that a settlement of the question by arbitration was the last thing Nicaragua wished; that the Nicaraguans acted under an exaggerated conception of the advantages they were to reap from the negotiations which their envoy, Mr. Castellon, was about to open with the British cabinet; and, finally, that they thought to have the whole world in their power. They even looked with indifference on the possibility, hinted at by Mr. Molina, that Costa Rica would appeal for support to any foreign power. This candid and straightforward manifestation was construed into a design, on the part of Costa Rica, to put in jeopardy the territorial integrity of the country—a design which Costa Rica never entertained, and which Mr. Molina officially disclaimed in his last communication to Mr. Juarez, dated October 3, 1848.

He consequently took leave, in obedience to his instructions, and in order to avoid being trifled with any longer by that extraordinary diplomacy; and, as he had announced his intention of doing, he proceeded to England, to the Government of which country he was accredited ~~as envoy~~ extraordinary and minister plenipotentiary.*

FIFTH PERIOD. 1847—1851.

ENTIRE SEPARATION OF THE STATES OF CENTRAL AMERICA, AND THEIR BECOMING INDEPENDENT REPUBLICS.

During Mr. Molina's mission to Nicaragua, the final separation of Costa Rica from her former sister States took place, by a solemn declaration dated 31st August, 1848, when that State assumed the character of an inde-

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*The refusal of Nicaragua to listen to Mr. Molina's overtures should by no means be ascribed to moderation, but to the hope of arranging all matters elsewhere, with equal, if not greater, advantage at the expense of Costa Rica.

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pendent nation, which it had practically enjoyed during the preceding ten years. Guatemala had given the example, and the remaining States of San Salvador, Honduras, and Nicaragua, though maintaining an ambiguous position, according to their views in each particular case, had shown, by repeated fruitless attempts, their inability to organize any general government whatever. It is notorious that each of those States has constantly exercised by itself the highest attributes of sovereignty, such as that of sending ministers to foreign powers; issuing monetary and commercial regulations; reforming the laws of naturalization, &c., &c. Suffice it to mention, amongst other facts, the missions of Messrs. Castellon and Marcoleta, as ministers of Nicaragua and Honduras, to several European courts; that of Mr. Carache to the United States, and that of Mr. Ignatius Gomez to Rome. (a) (See appendix.)

What, then, had Costa Rica to expect? It was necessary, in order to open diplomatic relations with other powers, that her position should be defined, and this was done by means of the memorable declaration above alluded to. (b)

Mr. W. D. Christie, British consul general for Mosquitia, made at that moment his appearance in San Jose, and the Government of the Republic received and welcomed him as was due to his personal merit, to the nation he represented, and to the mutual good understanding existing between both countries. No one, however, can reproach Costa Rica with having, by her reception of Mr. Christie, compromised, or intended to compromise, the interests of the other States of Central America in regard to the Mosquito question; and this is more than the Government of Nicaragua can say in its own behalf, that State having entered into contracts for the construction of the ship canal without the concurrence of Costa Rica; and, in so doing, having made extensive grants of lands belonging to Costa Rica, as if such lands had been the undisputed property of Nicaragua.

Notwithstanding Mr. Molina's mission to London to ask the support, or at least the mediation, of Great Britain, (c) the Government of Costa Rica, did not, on that account, cease to try different expedients, in order to promote an amicable solution of the question. Agreeably to that desire, and at the suggestion of the aforesaid minister, the Government authorized him to negotiate with Mr. Castellon in London, and invited Nicaragua to send

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(a) The Government of the United States and other powers, have treated with all those States considering them as distinct nationalities.

(b) Congress passed it in virtue of its constitutional powers at the petition of all the municipalities, those of Guanacaste included.

(c) It must be recollected that the Government of the United States appeared to take little interest in the affairs of Central America up to that date.

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equal powers to Mr. Castellon, so that they might, whilst both in England, conclude a treaty between their respective countries. (a)

The Nicaraguan Government refused to listen to such invitations, and did not authorize its representative to enter into the proposed negotiation. Mr. Castellon, it is true, proposed to Mr. Molina that they should sign a treaty upon their own responsibility. But Mr. Molina, fully aware of the little probability there was that the Government of Nicaragua would approve such a treaty, declined the proposal.

Is there a person endowed with common sense, who, aware of these premises, could expect that the representative of Costa Rica would second that of Nicaragua in its claims with reference to the Mosquito coast? It will consequently appear singular that Mr. Castellon should address a despatch to Mr. Molina on the subject, and that the better to persuade him, the Nicaraguan minister should therein refuse to Costa Rica the title of Republic, a title which foreign nations have acknowledged, and by which Nicaragua is already at the present hour styling herself. We mention these trifling incidents in order to give an insight into the spirit which has actuated Nicaragua in the course of the unfortunate events to which we are alluding.

The foregoing is an exact account of what has taken place in regard to the boundary questions between the two countries. We believe that it is enough to present the facts in order fully to establish the justice of the course adopted by Costa Rica.

The Republic relies for its support on the good will and friendly offices of all powers who have recognised its independence. (b) The American Government, through its worthy representatives in London, Mr. Bancroft in the first instance, and through Mr. Lawrence afterwards, expressed its readiness to use its good offices with the view of facilitating the settlement of the pending disputes between the two countries. The Costa Rican minister accepted with eagerness that philanthropic offer (c) which we find subsequently embodied in the ship canal convention, concluded

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(a) "The Costa Rican minister assured me that he has full powers to come to a settlement, but neither Mr. Castellon nor Mr. Marcoleta has such full powers." Mr. Bancroft to Mr. Clayton, London, May 30, 1849.

(b) The Republic of Costa Rica has been recognised by the United States, Spain, France, Great Britain, the Holy See, the King of the Two Sicilies, the Hanseatic Towns, and the Republic of Guatemala.

(c) See despatch of Mr. Lawrence to Mr. Clayton, dated London, 8th February, 1850. "The agent of Costa Rica (he states) having full authority responded most heartily, and as he thought thankfully, for the mediation that might be proffered in the settlement of their disputes.

"The Nicaraguan minister not having authority to enter into stipulations of the character indicated, said that he was not prepared to act."

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between the United States and Great Britain, as it appears by the following provision :

"ART. 6. The contracting parties to this convention engage to invite every State with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated; and the contracting parties likewise agree, that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention—namely, that of constructing and maintaining the said canal as a ship communication between the two oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree, that the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such treaty stipulations; and should any differences arise as to right or property over the territory through which the said canal shall pass, between the States or Governments of Central America, and such differences should in any way impede or obstruct the execution of said canal, the Governments of Great Britain and the United States will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties."

In presence of the preceding agreement, the Government of Costa Rica has already expressed its unqualified assent to the mediation, and its willingness to submit without reserve to the arbitration of the two powers, Great Britain and the United States.

It remains to be ascertained what will be the resolution of Nicaragua on this subject.

Thus the matter stands.

We will not pass in silence a very remarkable portion of the memoir on this question circulated by Mr. Castellon, as evincing the degree of blindness at which a person may arrive when pertinaciously defending any given cause. Mr. Castellon says, "that if the waste lands lying on the southern bank of the river San Juan were not belonging to Nicaragua, then they would be the property of New Granada, rather than of Costa Rica." In support of this assertion he brings forward the famous royal ordinance of the Spanish Government (1803) placing under the vigilance of the vice royalty of New Granada, or, more properly speaking, of the naval station existing at Carthagena, all the coast from Cape Gracias á Dios to the river Chagres. How easy it is to lose one's way when one yields to passion! It is obvious that the above mentioned decree had the character of a temporary measure, adopted only with a view to the defence of the coast. If that transient regulation could be construed as superseding the right of Costa Rica to the territories on the southern bank, it would have an equal effect against the rights of Nicaragua to the territories lying on the northern bank; Nicaragua could no longer present any justifiable grounds for claiming the Mosquito coast.

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If we are to draw any deductions against Costa Rica in respect of the royal order in question, the same must stand good against Nicaragua; and it would ensue that this latter State possesses no available title for demanding from the British Government the surrender and return of San Juan, and that it has no title to dispute the right of Costa Rica to the southern bank, the only lawful propriety whereof, according to the Nicaraguan version, being New Granada.

Thus it is that the false reasoning of the Nicaraguans falls to the ground by the weight of its own exaggeration !

The question at issue is between Costa Rica and Nicaragua, and Mr. Castellon calls to his assistance the pretensions of a third party, excluding the rights of the two former !

The argument drawn from history, that the municipii of Rome did not exercise sovereignty in order to prove that Guanacaste could not annex itself to Costa Rica, can only be viewed as a proof of the erudition of its author. We take it for granted that, in the normal state of any nation, the municipal corporations, units, or fractions of a commonwealth, cannot separately legislate, declare war, nor make peace; but this rule will not apply to a country in a state of revolution and disorganization. Then, as we have asserted, the people are their own masters, whether a small village or a large city; whether an aggregate of villages, towns, or cities, under any given denomination. According to that eternal principle, the district of Guanacaste annexed itself to Costa Rica during our two great revolutions, viz., *the emancipation from the mother country*, and the *dissolution* of the *Federal Government.* (a)

It is asserted that Nicaragua did not give its assent to the decree of the Federal Congress, issued on the 9th December, 1825, whereby the annexation of Guanacaste to Costa Rica was approved. Even if we take this for granted, (and it has not been proved,) such an objection would be of no value at all. The will of the whole confederation, coupled with the will of the people immediately concerned, should surely be considered of more weight than the opposition of a third party which had no assured existence as yet, and which never possessed any authority over that people after it had achieved its independence.

It is alleged that the towns of Guanacaste petitioned at the time against their annexation to Costa Rica. It is true we have been told that there was one individual who made such a petition; but even if there were more, they must have formed a minority too insignificant to be worthy of consideration, since Congress adopted a contrary resolution to their opinion.

(a) That resolution has been confirmed in four successive conventions, held in Costa Rica, in 1838, 1842, 1843, and 1847, to which Guanacaste has concurred.

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It is moreover objected that the Government of Costa Rica itself, convinced of its precarious title to Guanacaste, ordered the sale of public lands in that district to be suspended there. This would only prove the circumspection of that Government, and moreover it refers to the early period of the annexation.

It is finally asserted that the dissolution of the Federal Congress having taken place without its decreeing the demarkation of the boundaries of the States, Costa Rica forfeited all right over Guanacaste. This is exact to a certain extent; but it is no less so that the inhabitants of the district, by a new act of their own will, *sovereign and all powerful* in times of revolution, again gave to Costa Rica the strongest of all rights over their territory.

Assuredly Costa Rica had a better title than any body else to retain definitively that which had been at first annexed to her only provisionally. None of the other States held so favorable a position for forming a lasting connexion with Guanacaste as Costa Rica. The will of the population; the facilities for trade afforded to the inhabitants of the district; the geographical situation of the same; the preference, although in a provisional sense, shown by the Federal Congress; the uninterrupted possession during 27 years *de jure* and *de facto;* every thing, in short, combines to legalize the claims of Costa Rica, and to sanction forever a condition of things so much in accordance with the interests and sentiments of the district.

The interests, indeed, of the inhabitants of Guanacaste will always incline them to maintain the annexation. Under the mild and peaceful administration of Costa Rica, under her liberal and fostering laws, they are never exposed to the ravages of civil war, nor to continual troubles and disturbances. The towns of the district are separated from Nicaragua by an uninhabited tract of country of considerable extent, whilst they are close to the towns of Costa Rica. For the purpose of foreign trade they have the port of Punta Arenas at their very threshold; and for internal traffic they find an extensive field in the other neighboring districts of the same Republic. Finally, by the identity of customs and regulations, as well as particular character, from the effects of their long and intimate connexion, they have become, in the lapse of time, entirely amalgamated with the Costa Rican people.

Casting a glance upon a map, one cannot fail to recognise that, in keeping Guanacaste, the Republic of Costa Rica only defends its natural boundaries. Every part of the district is connected with some of the central towns of Costa Rica, and separated from Nicaragua by geographical obstacles. The Costa Ricans possess there a large number of farms, and the Nicaraguans not a single hut. As we have said, a vast tract of uncultivated land divides Guanacaste from Nicaragua. Nature appears to have

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taken care to trace itself the boundaries of Costa Rica, and to include Guanacaste in her territory.

Whatever might be in old times the line of division between Costa Rica and Nicoya, it is evident that the southern banks of the river San Juan belonged to the one or the other. To whatever point the territory of the one is considered to recede, to that point the territory of the other must be entitled to advance; consequently, now that those two countries are consolidated into one, it appears almost superfluous to investigate which was the division line in olden times, and there is no room to question the justice with which Costa Rica claims the whole course of the river San Juan as her frontier.

But supposing the boundaries between Costa Rica and Nicaragua not to have been distinctly fixed in old times, except at a few points, it must be taken into consideration that both countries were once united and under one government; consequently, it appears that the unoccupied lands ought to be assigned in just proportion to the two States, and a distinct and convenient frontier adopted. This proposal appears the more reasonable when it is considered that Costa Rica claims in her own right and that of Guanacaste, and that in the event of the Mosquito coast being restored to Nicaragua, that State will possess a great extent of territory. If any portion of the territory on the southern bank of the San Juan does not belong to Costa Rica or to Nicoya by a clear title, it ought still to be given to us for the aforesaid reason.

When the constitutional system was established in Spain, in the year 1812, the district of Nicoya was, by a decree of the Spanish Cortes, incorporated with Costa Rica in all that regarded the election of representatives, both to the Cortes and to the Provincial Assembly (Diputacion Provincial.) This circumstance is only mentioned to show, that the above mentioned district is destined by nature to belong to Costa Rica, to which country it was for some time annexed, in all respects, during the middle of the 18th century.

Not only does Nicoya belong to Costa Rica on the strong basis of the popular will, but we have already added that of transfer or tradition from the Crown of Spain, according to a treaty, from which we shall give the following extract:

"ARTICLE 1. Her Catholic Majesty, in exercise of the authority belonging to her, in conformity to a decree of the General Cortes of the kingdom, issued under date of the 4th of December of 1836, does renounce forever, in the most formal and solemn manner, on her behalf and on that of her successors, the sovereignty, rights, and titles that appertain to her, over the American territory lying between the Atlantic ocean and the Pacific, together with its adjacent islands, formerly known by the name of the Province of Costa Rica, at present the Republic of the same name, *as well as over all the other territories which may have been incorporated into said Republic.*"

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"ARTICLE 2. Her Catholic Majesty, in consequence, does recognise the Republic of Costa Rica as a free, sovereign, and independent nation, *with all the territories of which it is actually composed*, (constituted,) or of which it may henceforth be composed."

Amongst other powerful arguments in support of the annexation, let us mention the fact that the Government of Costa Rica has discharged the share of the foreign debt belonging to Guanacaste. Costa Rica, in fact, paid off, in 1838—1843, one-twelfth part of the debt which Central America owed to British bondholders. It was apportioned among the States in the ratio of the population; and, consequently, not only was Guanacaste included in the calculation as a part of Costa Rica, but the entire population of Central America being estimated at 1,428,000,* and that of Costa Rica at from 95 to 100,000 souls, it follows that Costa Rica paid more than her share.

Costa Rica, in like manner, has engaged by treaty with Spain to pay off her share of the old domestic debt of the country, Guanacaste included, as appears by the following extract:

"ARTICLE 15. The Republic of Costa Rica engages to discharge the share in the old colonial domestic debt, contracted by the Spanish Government and its authorities in the ancient Captain Generalship of Guatemala, up to the day of the independence, that may belong to the ancient Province of Costa Rica, and to those territories now composing the present Republic of Costa Rica."

(Treaty of peace and amity between Her Catholic Majesty and the Republic of Costa Rica, signed at Madrid, on the 10th May, 1850, and exchanged on the 21st December of the same year.)

In conclusion, Costa Rica unites on her side, as we have shown, right, possession, and expediency; and it may be easily conceived that, after twelve years of fruitless exertions for an amicable arrangement, the Republic will no longer feel disposed to make any sacrifice of her rights, but will insist on maintaining her line of natural frontier, and on having the questions tried by arbitration.

We think we have said enough for the proper understanding of the boundary differences, and of the negotiations relative thereto; negotiations in which one of the parties has shown the greatest forbearance, whilst the other has acted in a very different spirit.

The presentation to the public of this report has been considered by the author as a duty he owed to truth, to Costa Rica, and to himself. He hopes he may have discharged it in a becoming and frank tone; for although, on the one hand, he has the honor of being the devoted servant of Costa Rica; on the other hand, Nicaragua is dear to him as a member of the old Union, and a portion of the same society which he used to regard as his beloved country.

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*Baily's Central America. Published by Trelawney Saunders, 6 Charing Cross, London.

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renunciation on the part of each of the States of some branches of revenue, in order to form a federal treasury; but the financial resources of the States are at present so limited, that they are not likely to be willing to part with any portion of such resources.

Influential parties exist in each State who have now the uncontrolled management of every public concern, and who will never be persuaded to any diminution of their power.

The last of all, though by no means the least difficulty, would be that of agreeing on the choice of a capital, the rivalship between the different States being so remarkably strong.

These considerations confirm us in the belief, that the only feasible mode of settling affairs in Central America would be the alliance of all the States, and their managing in concert their foreign relations.

The Diet of Salvador, Honduras, and Nicaragua has recently met in Chinandega; but there is little probability of its deliberations leading to any satisfactory result, and we question whether it will be enabled to do any thing really beneficial to the country.

Would to God that it may happen otherwise, and that the Diet may lay the foundations of a new and lasting political union between the Central American communities!

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